



*Tallahassee-Leon County
Planning Department*

MEMORANDUM

To: Members of the Tallahassee / Leon County Planning Commission
From: Enid Ehrbar, Senior Planner *EES*
Date: March 11, 2003
Subject: Consistency Review: Re-vest Conceptually Approved PUDs

The Planning Department staff has been asked to conduct a Comprehensive Plan consistency review for the proposed revisions to Chapter 10, Section 99 of the Leon County Code of Laws related to vested rights determination. This ordinance change allows for an application to be submitted for the re-granting of vested rights that were previously granted through a vested rights committee. It also establishes additional criteria for re-vesting of Planned Unit Developments (PUDs) that have received conceptual approval. Staff has reviewed the proposed changes in relation to the Comprehensive Plan policies and finds the proposed ordinance consistent with the Plan based on the limited policy language contained in the Plan. The direction from the Planning Commission Attorney has been to find an item consistent with the Comprehensive Plan if the Plan does not address the issue. That being said, staff is concerned that re-vesting of development may unintentionally work counter to various policies in the Comprehensive Plan.

The current vesting provisions were designed to insure that development that had been approved prior to the adoption of the Comprehensive Plan did not suffer undue hardship by having to meet new or additional requirements of the Comprehensive Plan. The ordinance contains a November 1, 1998 deadline for re-granting of vested rights that had been previously granted, and had expired. This modification is a revision to the vesting section of the County Code that sets a new application time for allowing a request for re-vesting to be brought before the Board of County Commissioners for a public hearing, and adds criteria for the re-vesting of conceptual PUDs. The application date for using this proposed modification has been extended to November 3, 2003. Anyone wishing to avail themselves of this re-vesting would have to apply by this date, making this proposed change of limited applicability, unless the date is again extended in the future. The PUD criteria include demonstrating adequate public infrastructure such as, but not limited to transportation, stormwater, and environmental impacts and demonstrating the

development will be compatible with existing or planned land uses adjacent to or close to the parcel. The applicant must also demonstrate that the development of the unbuilt portions of the PUD can comply with the required protection of conservation or preservation features on site.

Although it may not be a direct consistency issue, there may be consequences from re-vesting that could work counter to the policies in the Plan. One example of potential implications with respect to Comprehensive Plan intent is the situation that precipitated this ordinance. This specific situation is the desire to redevelop an existing building (the soon to be vacant Sam's Club on North US 27) into a much larger structure. The expansion of this structure would not be consistent with the Lake Protection zoning or land use. This property is within the Lake Protection land use category, which limits the amount of non-residential uses to 10,000 square feet, substantially less than the existing SAMs building. The Sam's Club building could be reused in its present configuration, being basically grandfathered in. Expanding the building is inconsistent with the Lake Protection land use category. Along with other land development regulations, the limitations on development in the Lake Protection category and vesting limitations are designed to protect the Lake Jackson drainage basin and therefore protect the lake from further degradation. The effect of amending the vesting ordinance on Comprehensive Plan implementation must be considered.

The additional language that has been added to this re-vesting ordinance contains specific criteria for re-vesting of PUDs intended to insure that any re-vesting of PUD properties does not run counter to the policy direction in the Plan. Proposed Section (2) a, b, and c require that adequate infrastructure be available to deal with off site impacts. These may include stormwater, transportation and environmental impacts associated with the unbuilt phases of the PUD. The applicant must also demonstrate compatibility with the surrounding uses, internal cohesiveness and spatial integration. The applicant will have to comply with the required protection of conservation and preservation features consistent with the Comprehensive Plan and the EMA (Environmental Management Act).

Planning staff has expressed concern that the re-vesting provision would apply to any previously vested property, and that the additional criteria do not apply to non-PUD re-vestings. County staff has stated, however, that there were less than 100 properties originally vested and most are built out. The ordinance itself does not re-vest properties, but creates a mechanism through which the Board of County Commissioners could approve re-vesting when applicable criteria are met.